

CRM-M-21774-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(102)
CRM-M-21774-2023
Date of decision : 01.05.2023

Axxxx Rxxx ...Petitioner
Versus
State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Nagar Singh, Advocate
for the petitioner.

Mr. Rohit Bansal, Senior Deputy Advocate General, Punjab
for the State.
...

SUVIR SEHGAL, J. (Oral)

1. Instant petition has been filed under Section 439(2) of the Code of Criminal Procedure, 1973 (for short “the Code”) for cancellation of regular bail of respondent No.2, granted by this Court vide orders dated 20.09.2021 and 12.12.2022, Annexures P-2 and P-3, respectively, in case bearing FIR:-

FIR No.	Dated	Police Station	Sections
198	14.09.2020	Division No.2, Pathankot, District Pathankot.	376, 420 and 506, IPC.

2. Counsel for the petitioner has argued that after entering into matrimony with the petitioner, accused-respondent 2 has been ill-treating her. He has deserted her and her young child and is not fulfilling his matrimonial obligation. She has sought cancellation of bail granted to accused-respondent No.2.

3. I have heard counsel for the parties.

4. Accused-respondent No.2 was released on interim bail by this Court vide order dated 20.09.2021, Annexure P-2, which was made absolute vide order dated 12.12.2022, Annexure P-3, in the presence and with the concurrence of the prosecutrix-petitioner. Relevant extract of order passed by this Court on 12.12.2022 is reproduced as under:-

“On 20.09.2021, this Court passed the following order in the main case:-

“This is a petition that has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.198, dated 14.09.2020, registered under Sections 376, 420, 506 of IPC at Police Station Division No.2, District Pathankot.

Learned counsel for the petitioner herein would contend that in the statement recorded under Section 164 Cr.P.C., the complainant has stated that she was in a live in relationship with the petitioner for the past 2 years and was not forced to do anything. Counsel would further contend that out of their relationship, a child has born and both the parties would like to reside together. Pursuant to the statement made in the Court, the prosecutrix was directed to be impleaded as a party by an order dated 28.04.2021. The prosecutrix, with a child in her lap, is present through the medium of video

conferencing from the chamber of Mr. S.K. Choudhary, Advocate, who is appearing on behalf of the petitioner. She would submit that compromise has been effected between them and she along with her daughter has been accepted by the family members of the petitioner. Counsel for the petitioner would further submit that the marriage between the parties will be solemnized and in fact a petition for quashing of FIR based on compromise has already been filed.

I have heard learned counsel for the petitioner as well as interacted with the complainant herself and in view of the compromise that has been effected, deem it appropriate to allow interim bail to the petitioner for a period of six months to observe his conduct qua the prosecutrix.

Accordingly, the petitioner is ordered to be released on interim bail for a period of six months from today on execution of personal bond in a sum of Rs.1 lakh with one surety of the like amount to the satisfaction of concerned trial Court/Duty Magistrate.

Let this Court be informed about the marriage that is solemnized.

Adjourned to 14.03.2022 for further orders.”

Counsel for the petitioner has made a reference to

Marriage Certificate dated 12.10.2021 and the photographs taken at the time of wedding, Annexures P-8 and P-9, (ordered to be re-numbered as Annexures P-9 and P-10) to submit that after being released on interim bail, petitioner has married the prosecutrix. He has also invited the attention of the court to affidavit, Annexure C-1, executed by the prosecutrix, wherein she has admitted the factum of marriage and has stated that she has no objection in case interim bail granted to the petitioner is made absolute.

Per contra, learned State counsel, upon instructions from ASI, Sunil Kumar, has, however, opposed the petition and has submitted that there are serious allegations against the petitioner, who is accused of sexually assaulting the prosecutrix.

Counsel for the complainant on the other hand submits that the prosecutrix does not oppose the prayer made in the petition.

Having heard counsel for the parties, but without adverting to the merits or demerits of the arguments addressed, this Court is prima facie of the view that the involvement of the petitioner in the offence would be a subject matter of debate before the Trial Court. Interim bail granted to the petitioner, who has married the prosecutrix and has a child from the wedlock, by this Court vide order 20.09.2021, deserves to be

made confirmed.

In view of the above, petition is allowed.

Order dated 20.09.2021 is made absolute.

It is clarified that nothing said hereinabove shall be construed to be an expression of opinion on the merits of the case.”

5. Concedely, accused-respondent No.2 has married the prosecutrix. After marriage, there has been a dispute between the parties. It is not the case of the petitioner that the accused has violated any of the conditions of the bail order. Merely, because there has been a discord between the couple is not a sufficient ground to cancel the bail. At best, the dispute between the parties is a matrimonial dispute. Although, counsel for the petitioner has claimed that the accused has been harassing the petitioner, but he could not refer to any complaint made by the petitioner to any authority. Bald assertion made by him is not sufficient to cancel the bail.

6. Finding no merit in the petition, it is dismissed.

(SUVIR SEHGAL)
JUDGE

01.05.2023
Pardeep

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No